

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 194

SENATE BILL 1045

AN ACT

AMENDING SECTIONS 13-4023 AND 13-4024, ARIZONA REVISED STATUTES; RELATING TO
COMPETENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4023, Arizona Revised Statutes, is amended to
3 read:

4 13-4023. Recovery of competency

5 A. Within sixty days after a prisoner is committed for restoration to
6 competency treatment, the chief medical officer of the state hospital shall
7 file with the superior court a report setting forth the treatment being
8 provided, the status of the prisoner and the prognosis as to when the
9 prisoner will be competent. The chief medical officer shall provide copies
10 of the report to all of the parties and to the Arizona supreme court. The
11 chief medical officer shall update the report every sixty days until the
12 prisoner is determined to be competent to be executed.

13 B. After a prisoner recovers competency to be executed, the chief
14 medical officer of the state hospital shall certify to the Arizona supreme
15 court that the prisoner is competent. The Arizona supreme court shall order
16 that the execution be conducted according to the original warrant, if
17 unexpired, or shall issue a new warrant appointing a time for execution of
18 the judgment.

19 C. AFTER A PRISONER RECOVERS COMPETENCY AND WITHIN TEN DAYS AFTER A
20 WARRANT IS ISSUED, THE SUPERIOR COURT SHALL APPOINT PSYCHOLOGICAL EXPERTS
21 PURSUANT TO RULE 11.3, ARIZONA RULES OF CRIMINAL PROCEDURE TO ASSESS THE
22 PRISONER'S COMPETENCY TO BE EXECUTED. AFTER CONSIDERING THE WRITTEN OPINIONS
23 OF THE APPOINTED EXPERTS, IF THE SUPERIOR COURT BELIEVES THAT THERE IS A
24 SIGNIFICANT QUESTION ABOUT THE PRISONER'S COMPETENCY TO BE EXECUTED, THE
25 SUPERIOR COURT SHALL CONDUCT A COMPETENCY HEARING TO ADDRESS THAT ISSUE. IF
26 THE PRISONER AND THE STATE AGREE, THE SUPERIOR COURT MAY DETERMINE THE ISSUE
27 OF COMPETENCY WITHOUT A HEARING AND BASED ON THE SUBMITTED REPORTS.

28 D. ON THE REQUEST OF A PARTY, THE SUPERIOR COURT MAY APPOINT
29 PSYCHOLOGICAL EXPERTS AFTER A PRISONER'S COMPETENCY HAS BEEN CERTIFIED AND
30 BEFORE A WARRANT HAS BEEN ISSUED.

31 E. THE PRISONER MAY WAIVE THE APPOINTMENT OF EXPERTS PURSUANT TO THIS
32 SECTION.

33 F. WITHIN FIVE DAYS AFTER THE SUPERIOR COURT DETERMINES A PRISONER'S
34 COMPETENCY TO BE EXECUTED, A PARTY MAY FILE WITH THE SUPREME COURT A PETITION
35 FOR SPECIAL ACTION TO OBTAIN REVIEW OF THE SUPERIOR COURT'S DECISION.

36 G. THE COSTS INCURRED BY THE COUNTY IN APPOINTING EXPERTS UNDER THIS
37 SECTION SHALL BE PAID PURSUANT TO SECTION 13-4022.

38 Sec. 2. Section 13-4024, Arizona Revised Statutes, is amended to read:

39 13-4024. Untimely or successive motions

40 A. A motion for an examination under section 13-4022 that is filed
41 fewer than twenty days before a scheduled execution is untimely and shall not
42 be considered by the court unless it is accompanied by both of the following:

43 1. At least one affidavit from a licensed physician or licensed
44 psychologist who has examined the prisoner that states the physician's or
45 psychologist's opinion that the prisoner is not competent to be executed.

1 2. A statement that establishes good cause for the failure to file the
2 motion in a timely manner.

3 B. A motion THAT IS filed fewer than twenty days before a scheduled
4 execution shall be served on the state department of corrections and the
5 attorney representing the state in the criminal proceeding. The filing of
6 an untimely motion constitutes consent by the prisoner to be evaluated by a
7 mental health expert who is designated by the state department of
8 corrections. The mental health expert shall report the expert's findings to
9 the superior court and the parties as expediently as practicable. If the
10 prisoner fails to cooperate with an evaluation, the court shall dismiss the
11 motion.

12 C. If THE SUPERIOR COURT DENIES a motion for an examination under
13 section 13-4022 ~~has been denied~~, or a determination DETERMINES that the
14 prisoner is competent for execution ~~has been made by the superior court, or~~
15 ~~a certificate of competency for execution has been issued by the chief~~
16 ~~medical officer of the state hospital~~, no further hearings on competency may
17 be granted unless the successive motion is accompanied by an affidavit from
18 a physician who is licensed pursuant to title 32, chapter 13 or 17 or a
19 psychologist who is licensed pursuant to title 32, chapter 19.1 AND who has
20 examined the prisoner that AND THE AFFIDAVIT shows a substantial change of
21 circumstances since the previous motion for hearing was denied or the prior
22 determination of competency was made and the showing is sufficient to raise
23 a significant question about the prisoner's competency to be executed.

APPROVED BY THE GOVERNOR MAY 9, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2002.

Passed the House May 2, 2002,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 18, 2002,

by the following vote: 22 Ayes,

6 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of May, 2002,

at 12:30 o'clock P M.

Secretary to the Governor

Approved this 9 day of

May, 2002,

at 1:55 o'clock P M.

Governor of Arizona

S.B. 1045

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of May, 2002

at 3:27 o'clock P M.

Secretary of State